

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ALEXANDER SARTORIUS, on behalf)
of himself and all others similarly)
situated,)

Plaintiff,)

vs.)

Case No. 4:22 CV 632 CDP

TECHTRONIC INDUSTRIES NORTH)
AMERICA, INC., et al.,)

Defendants.)

MEMORANDUM AND ORDER

This matter is before me on plaintiff's motion for leave to file a second amended complaint. ECF 31. This case was originally filed on June 14, 2022. Plaintiff filed an amended complaint on June 16, 2022 at the direction of the Court to properly allege subject-matter jurisdiction. ECF 4, 5. Defendants move to dismiss the amended complaint on numerous grounds. ECF 23. Plaintiff filed an opposition to dismissal at the same time he filed the instant motion seeking amendment "if the Court determines that any of Plaintiff's claims are dismissed or are deficient." ECF 32. The proposed second amended complaint omits Counts III-IV as plaintiff "no longer wishes to pursue these counts." ECF 30 at 18. Defendants have not filed an opposition to amendment, and the time for doing so has expired.

Rule 15 of the Federal Rules of Civil Procedure provides that “the court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). Under this liberal standard, “[a] district court may deny leave to amend if there are compelling reasons such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment.” *Reuter v. Jax Ltd., Inc.*, 711 F.3d 918, 922 (8th Cir. 2013) (cleaned up).


Under these standards, and given that plaintiff no longer wishes to proceed on certain claims pleaded in the amended complaint, the Court will grant plaintiff leave to file his second amended complaint. “It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect.” *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005); *see also Thomas v. United Steelworkers Loc. 1938*, 743 F.3d 1134, 1139 (8th Cir. 2014). As a result, the pending motion directed to the amended complaint will be denied as moot, without prejudice to the filing of a motion directed to the second amended complaint, if defendant believes that is appropriate. *Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 956 (8th Cir. 2002) (motion to dismiss original complaint is moot by filing of amended complaint). For the same reason, plaintiff’s motion for leave to file supplemental authority will also be denied as moot.

Accordingly,

IT IS HEREBY ORDERED that the motion to amend [31] is granted, and the second amended complaint [32-1] is deemed filed as of this date.

IT IS FURTHER ORDERED that the motion to dismiss directed at the amended complaint [23] is denied as moot, without prejudice to the filing of a motion directed to the second amended complaint, if appropriate. Defendant is reminded of the time limit for moving or answering the second amended complaint.

IT IS FURTHER ORDERED that the motion for leave to file supplemental authority [36] is denied as moot.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 24th day of May, 2023.